VICTOR D. DE LOS SANTOS II, COMPLAINANT, VS. ATTY. NESTOR C. BARBOSA, RESPONDENT.

A.C. No. 6681. June 17, 2015

Ponente: BRION, J.

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BRION, J.:

We review Resolution No. XVIII-2008-705[1] of the Board of Governors of the Integrated Bar of the Philippines (IBP) in Administrative Case No. 6681. This Resolution imposed on Atty. Nestor C. Barbosa (respondent) the penalty of three months suspension from the practice of law for violation of his oath as a lawyer and of the Code of Professional Responsibility.

Antecedent Facts

A complaint for Falsification of Public Document was filed by Melba D. De Los Santos Rodis (Rodis) against her father, Ricardo D. De Los Santos, Sr. (De Los Santos, Sr.) and Rosie P. Canaco (Canaco). Rodis alleged that Canaco made untruthful statements in the certificate of live birth of her son, Victor Canaco De Los Santos. Canaco indicated in her son's certificate of live birth that she was married to De Los Santos, Sr. on September 1, 1974 in San Fernando, Camarines Sur when no such marriage took place.

On April 24, 2002, an Information[2] was filed against Canaco for violation of Sections 1 and 2 in relation with Section 9 of Presidential Decree No. 651.[3] Particularly, Canaco was charged of "willfully, unlawfully and knowingly making false statements in the Certificate of Live Birth form for her son Victor P. Delos Santos who was born on June 30, 1982 by falsely stating that she was married to the father of her son, RICARDO P. DELOS SANTOS on September 1, 1974."[4]

The case was docketed as Criminal Case No. 111152 and assigned to the Metropolitan Trial Court (MeTC), Branch 43 of Quezon City.

At the preliminary conference held on May 24, 2004, the respondent, as counsel de parte of Canaco, objected to the Prosecution's offer in evidence of the photocopy of the birth record of Victor Canaco Delos Santos. As a result, the MeTC issued an order resetting the preliminary conference to October 19, 2004 in order to give the prosecution time to file a certified true copy of the birth certificate.

On May 25, 2004, the respondent sent letters[5] dated May 24, 2004 to the Office of the Civil Registrar of Quezon City, the National Census and Statistics Office, and St. Luke's Hospital. The pertinent portions of these letters state:

> RE: ALLEGED CERTIFIED TRUE COPY OF CERTIFICATE OF LIVE BIRTH CODED AS 6826111, COVERED BY REGISTERED NUMBER 2499 LOCAL CIVIL REGISTRAR, QUEZON CITY.
>
> There is being distributed by unauthorized person/s a purported copy of Certificate of Live Birth above indicated which refers to one certain VICTOR CANACO DE LOS SANTOS. In this connection, please be guided by provisions of our existing laws regarding possible violation of the secrecy and confidentiality of

records.

Assuming without admitting that such facts of birth records exists, please be guided that my client, VICTOR CANACO DE LOS SANTOS, has never authorized anybody to secure a copy, Xerox or otherwise, and only upon his written authority and with undersigned counsel's signature and verification may a copy be officially reproduced, if any exist.

Under penalty of law. This May 24, 2004.

(signed)
ATTY. NESTOR C. BARBOSA
Counsel for Victor Canaco De Los Santos
Room 402, PNB Building,
City of Naga

Noted by:

(signed)
Victor C. De Los Santos" [Emphasis supplied.]

On October 19, 2004, the MeTC noted the manifestation of the complainant that they failed to secure a certified true copy of the birth certificate of the accused's son because of the respondent's letter. Thus, the MeTC issued an order for the issuance of a subpoena duces tecum/ad testificandum ordering the Civil Registrar of Quezon City to produce a certified true copy of the live birth of Victor Canaco delos Santos who alleged to have been born on June 30, 1982 under Registry No. LCR 2499.

Canaco, through the respondent, filed a motion for reconsideration of the order dated October 19, 2004 directing the issuance of a subpoena duces tecum/ad testificandum. In its order dated July 8, 2005, the MeTC denied the motion for reconsideration.

In the meantime, Victor D. De Los Santos II [herein complainant (brother of Rodis and son of Delos Santos, Sr.)] filed a complaint with the prosecutor charging the respondent for obstruction of justice.[6]

In defense, the respondent argued, among others, that the name of his client Canaco's son is VICTOR C. DE LOS SANTOS and not VICTOR P. DE LOS SANTOS as stated in the Information charging Canaco with violation of Presidential Decree No. 651. Thus, the respondent vehemently denied that he intentionally intended to delay and obstruct the proceedings in the MeTC.[7]

The prosecutor dismissed the obstruction of justice complaint for insufficiency of evidence.[8]

The Case

On February 22, 2005, the complainant filed a Petition for Disbarment[9] with the Court, charging the respondent with multiple gross violations of his oath as a lawyer and Canons of Professional Ethics for unlawfully obstructing and delaying the proceedings in Criminal Case No. 111152 against Canaco.

The complainant alleged that the respondent's act of sending out the letters dated May 24, 2004 was criminally and maliciously done to delay, impeded, obstruct, or otherwise frustrate the prosecution of Canaco, who is the respondent's client.[10]

The complainant further contended that the respondent's letters were not justified by any tenable and lawful defense[11] and were made to suppress and conceal the subject birth record to impair its availability, authenticity, verity, or admissibility as evidence in Criminal Case No. 111152 before the MeTC.

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Lastly, the complainant submitted that the acts of respondent constituted multiple gross violations of his oath as a lawyer, of the Canons of Professional Ethics, and of his duties as an attorney under the Rules of Court.[12]

In his Comment-Opposition[13] dated June 8, 2005, the respondent argued that the complainant is a disgruntled litigant whose series of cases, filed together with his group, had all been dismissed and the respondent was the opposing counsel in these dismissals.[14]

The respondent further asserted that this case is a violation of the rule on forum shopping since it is the tenth case pending on the same set of facts.

The Findings of the Investigating Commissioner

In our Resolution[15] dated August 24, 2005, we referred the case to the IBP for investigation, report, and recommendation. In her Report and Recommendation,[16] IBP Commissioner Lolita A. Quisumbing found the respondent administratively liable for violating his oath as a lawyer and the Code of Professional Responsibility. The IBP Commissioner opined that:

> Respondent's acts of objecting to the offer in evidence of a photocopy of the birth certificate of Victor C. De Los Santos which necessitated the postponement of the preliminary conference in order to afford the prosecution the opportunity to secure a certified true copy thereof was a calculated ploy to delay the successful prosecution of the case. To guarantee its further delay, on the same day of the preliminary conference; i.e., on 24 May 2004, he prepared the letter addressed to the Office of the Civil Registrar, National Census and Statistics Office and St. Luke's Hospital to prevent or delay the issuance of the certified true copy of the birth certificate. Such conduct is unethical, improper and inexcusable.[17]
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> x x x x x x x x x
>
> In view of the foregoing, we find respondent acts of (1) writing and sending out the letter dated 24 May 2004 and of (2) deliberately misleading the MeTC, the Supreme Court and this Commission into believing that Victor Canaco De Los Santos (accused's son whose birth certificate is at issue in the criminal case) and Victor P. De Los Santos (named in the Information) are two (2) different persons as constituting gross violation of his oath as a lawyer and of the Code of Professional Responsibility. Respondent's acts were unethical, improper and committed with no other prompt and efficient disposition of the case. Lawyers are reminded that as officers of the court, they have a responsibility to assist in the proper administration of justice.[18] [Emphasis supplied.]

The IBP Commissioner recommended that Atty. Barbosa be suspended from the practice of law for a period of one (1) year.

The Findings of the IBP Board of Governors

In a Resolution[19] dated May 26, 2006, the IBP Board of Governors (BOG) resolved to adopt and approve the Report and Recommendation of the IBP Commissioner after finding it to be fully supported by the evidence on record, the applicable laws and rules. However, the IBP Board of Governors modified the IBP Commissioner's recommended penalty of suspension from the practice of law for a period of one (1) year to six (6) months.

Atty. Barbosa moved to reconsider the BOG resolution. In a Resolution[20] dated December 11, 2008, the BOG denied the motion but modified the respondent's suspension from the practice of law to a period of only three months.

The Court's Ruling

After a careful study of the records, the Court approves the findings of the IBP Commission and the IBP Board of

Governors, but resolves to modify the recommended penalty of suspension from the practice of law to a period of one (1) year.

Unduly Delaying the Proceedings

Under Canon 1 of the Code of Professional Responsibility, lawyers should uphold the Constitution, obey the laws of the land, and promote respect for the law and legal processes.

Specifically, Rule 1.01 of Canon 1 states that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." Rule 1.03 also provides that "[a] lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause."

Rule 12.04 of Canon 12 of the Code of Professional Responsibility likewise states that "[a] lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes."

As an officer of the court, a lawyer is part of the machinery in the administration of justice.[21] A lawyer should not only help attain the speedy, efficient, impartial, correct, and inexpensive adjudication of cases and prompt satisfaction of final judgments, but should likewise avoid any unethical or improper practices that may impede, obstruct, or prevent the realization of a speedy and efficient administration of justice.[22]

In the present case, in disregard of the METC's intent to expedite the proceedings through its Order of October 19, 2004, the respondent sent letters to the Office of the Civil Registrar of Quezon City, the National Census and Statistics Office, and St. Luke's Hospital to prevent the prosecution from obtaining a certified true copy of the birth certificate of Victor Canaco Delos Santos. The preliminary conference of May 24, 2004 was precisely postponed to allow the prosecution to secure this certified true copy. Thus, the respondent committed willful disobedience to a lawful order of the court intended to avoid any further delay of the proceedings in the criminal case.

Misleading the Court as to the Identity of his Client

Under Canon 10 of the Code of Professional Responsibility, lawyers owe candor, fairness, and good faith to the court. Particularly, Rule 10.01 provides that "[a] lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice."

A lawyer is, first and foremost, an officer of the court. A lawyer's first duty is not to his client but to the administration of justice.[23]

In this case, the respondent deliberately misled the MeTC, the Commission and this Court into believing that Victor Canaco De Los Santos (Canaco's son whose birth certificate is at issue in the criminal case) and Victor P. De Los Santos (named in the Information) are different persons.

The Court agrees with the findings of the IBP Commissioner that the difference in the middle initial is a mere typographical error on the part of the City Prosecutor. The criminal case involved one and the same Victor Canaco de los Santos whose birth certificate has been at issue.

Members of the Bar are expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission, that might lessen the trust and confidence reposed by the public in the fidelity, honesty, and integrity of the legal profession.[24]

In Molina v. Magat,[25] the penalty of six months suspension from the practice of law was imposed against the lawyer who made false and untruthful statements in one of his pleadings. Here, the respondent committed breaches of ethical rules beyond what was committed in Molina; his defiance and willful disobedience to a lawful

order of the MeTC and the act of misleading the MeTC, the Commission, and this Court as to the identity of his client constitute gross violation of his oath as a lawyer and of the Code of Professional Responsibility.

For clearly falling short of the standards set by the Code of Professional Responsibility, the Court finds that the appropriate penalty should be a suspension from the practice of law for a period of one (1) year as originally recommended by the Investigating Commissioner.

WHEREFORE, premises considered, the Court finds respondent Atty. Nestor C. Barbosa GUILTY of violating Rules 1.01 and 1.03 of Canon 1, Rule 10.01 of Canon 10, and Rule 12.04 of Canon 12 of the Code of Professional Responsibility. He is hereby SUSPENDED for one (1) year from the practice of law, effective upon his receipt of this Decision, and is STERNLY WARNED that a repetition of the same or similar acts will be dealt with more severely.

Let a copy of this Decision be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, the Public Information Office, and the Office of the Court Administrator for circulation to all courts. Likewise, a Notice of Suspension shall be prominently posted in the Supreme Court website as a notice to the general public.

The respondent, upon receipt of this Resolution shall forthwith be suspended from the practice of law and shall formally manifest to this Court that his suspension has started. He shall furnish all courts and quasi-judicial bodies where he has entered his appearance a copy of this manifestation.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Mendoza, and Jardeleza,[*] JJ., concur.

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[*] Designated as Acting Member of the Second Division in lieu of Associate Justice Marvic M.V.F. Leonen, per Special Order No. 2056 dated June 10, 2015.

[1] Rollo, p. 374; issued on December 11, 2008.

[2] Id. at 63.

[3] Requiring the Registration of Births and Deaths in the Philippines Which Occurred From January 1, 1974 and Thereafter, Presidential Decree No. 651 (1975).

Section 9. Penalty. Any person required under this decree to report for registration any fact concerning the civil status of persons and who fails to do so, or who deliberately makes false statements in the birth or death form and presents the same for registration, or who violates any rule or regulation which may be issued pursuant to this decree, and any local public health officer who fails to perform his duties as provided for in this decree, or violates any rule or regulation which may be issued pursuant to this decree, shall upon conviction, be punished by a fine of not less than P500.00 nor more than P1,000.00 or imprisonment of not less than three (3) months nor more than six (6) months, or both, in the discretion of the court. (Emphasis supplied.)

[4] Rollo, p. 65.

[5] Id. at 8.

[6] Id. at 48-49.

[7] Id. at 55-62.

[8] Id. at 46-47.

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[9] Id. at 1-5.

[10] Id. at 2.

[11] Id.

[12] Id. at 3.

[13] Id. at 17-22.

[14] Id. at 17.

[15] Id. at 77.

[16] Id. at 226-232.

[17] Id. at 229.

[18] Id. at 231.

[19] Resolution No. XVII-2006-286; id. at 225; issued on May 26, 2006.

[20] Resolution No. XVIII-2008-705.

[21] Prieto v. Corpus, A.C. No. 6517, December 6, 2006, 510 SCRA 1, 11.

[22] Agustin v. Empleo, 519 Phil. 85, 90-91 (2006).

[23] Valencia v. Antiniw, A.C. Nos. 1302, 1391, 1543, June 30, 2008, 556 SCRA 503, 514.

[24] Yupangco-Nakpil v. Uy, A.C. 9115, September 17, 2014. A.C. No. 1900, June 13, 2012, 672 SCRA 1.

[25] A.C. No. 1900, June 13, 2012, 672 SCRA 1.

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